HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITIONS Nos:18420 OF 2003

Dated: 02.11.2007

Ch.V.R.Prasad ..**Petitioner**

And

Govt of A.P rep by its Secretary, Medical & Health Secretariate, Hyderabad & others.

..**Respondents**

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITIONS Nos:18420 OF 2003

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to set aside the order of the tribunal passed in O.A.No:4974 of 2000 on 5.12.2002 and the Review M.A.No:957 of 2003 on 3.4.2003 and the proceedings in G.O.Rt.No:984, Health, Medical & Family Welfare (J2), dated 27.7.2000 and direct the respondents to regularize the services of the petitioner in the post of superior field worker with effect from 20.2.1998 and grant all consequential benefits attached to the post.

The petitioner is the applicant before the tribunal. He along with others filed O.A.No.4974 of 2000 seeking to declare the G.O.Rt.No.984, dated 27.7.2000 as illegal and arbitrary and consequently, to direct the

respondents to regularize the services of the applicants in the posts held by them with all consequential benefits.

The tribunal having observed that the applicants did not possess the qualification of pass in intermediate and did not hold the Sanitary Inspector Training Course certificate and thus, they are not at all qualified for the posts and that the order issued by the then DMHO, Krishna District, absorbing the applicants in the posts of Superior Field workers/Field Assistants does not have any legal backing and thus, such orders are necessarily to be held as irregular and in view of this, the orders impugned are necessarily to be sustained and accordingly, the O.A., is held as devoid of merits, dismissed the O.A. However, it is made clear that as and when any fresh candidates are engaged as NMRs in the National Malaria Eradication Programme (NMEP) Unit, Vijayawada, the case of the applicants may be considered in preference to others duly giving weightage to them in the light of the service they had rendered in view of the fact that they were originally recruited in the year 1989 and continued as such in Government service though there is a break from 17.5.1994 to 23.2.1998 i.e., a period of 3 years and nine months. Having aggrieved by the same, the petitioner-3rd applicant filed Review M.A.No:1180 of 2003 on the ground that after the dismissal of O.A., he came to know about the absorption of one Mohammed Sahib who was appointed on 28.7.1992 along with him and in fact, the tribunal by its order dated 20.4.1995 in O.A.No:6816 and batch directed the State Government to re examine the orders of termination of the District Medical and Health Officer and on the basis of the representations made by 50 employees whose appointments were initially irregular, the Government has permitted 50 employees to continue in the Government service and

regularized their services and the case of the this applicant is on the same footing and therefore, the order passed in O.A.No:4974 of 2000 may be reviewed insofar as the applicant is concerned by setting aside the same and quashing G.O.Rt.No:984, dated 27.7.2000. The tribunal having observed that there are no new issues either on fact or on law, which came into existence after issue of the said orders by the tribunal on 5.12.2002, dismissed the review petition. Challenging the order of the tribunal in the O.A as well as the review petition, the present writ petition is preferred by the 3rd applicant.

Heard and perused the entire material available on record.

Placing reliance on the letter in R.C.No:593/M2/03, dated 17.5.2006 of the District Medical and Health Officer addressed to the Director of Health of Andhra Pradesh, Koti, Hyderabad, it is contended by the learned counsel for the 3rd applicant-writ petitioner that the juniors to the 3rd applicant were appointed to the posts as per the proceedings in R.C.No:577/M2/04, dated 10.12.2004 and apart from that, one Mohammed Saheb who was also originally appointed along with the 3rd applicant and others on 30.7.1992 was allowed to continue in service and presently working as Field Worker at District Malaria Office, Machilipatnam and there are four vacancies of the posts of Field Workers at Vijayawada and Nuzvid and due to the pendency of the O.As, the case of the 3rd applicant could not be considered and in view of the recommendations made in the letter, the case of the 3rd applicant may be considered by setting aside the order impugned.

We have perused the letter, dated 17.5.2006. It clearly goes to show that four juniors to the 3rd applicant and others, were recently

appointed to the post as per the proceeding in R.C.No:577/M2/04, dated 10.12.2004, that one Md.Saheb who was also originally appointed along with the 3rd applicant and others on 30.7.1992 was allowed in service undisturbed and presently working as F.W. at District malaria office, Machilipatnam, that the 3rd applicant has put in more than 5 years of service as on 25.11.1993 as N.M.R in N.M.E.P. scheme by which date they were already working, that for the post of field worker, no technical qualification is required and at the time of the original appointment during the year 1992, the 3rd applicant was within the prescribed age limit and lost alternative job opportunity, subsequently, four candidates who are juniors to the 3rd applicant and others possessing the same qualification and lesser length of service were given regular absorption in N.M.E.P. scheme on humanitarian grounds, that there is no negligence or disinterest in respect of the 3rd applicant and others in absorbing them during all these years and that is only due to the pendency of the O.As filed by them and now, four vacancies are available at Vijayawada and Nuzvid.

In the present facts and circumstances of the case coupled with the admitted facts as narrated in the above letter and in view of the fact that the 3rd applicant has fulfilled the conditions as stipulated under G.O.Ms.No:212 and in view of the fact that one Md.Saheb who was appointed along with the 3rd applicant on 30.7.1992 was allowed in service undisturbed and presently working as such and four juniors to the 3rd applicant were absorbed in regular service, We have no hesitation to hold that G.O. Rt.No:984, dated 27.7.2000 is liable to be quashed insofar as the case of the 3rd applicant-writ

petitioner is concerned. Consequently, there shall be a direction to the respondents to reinstate the 3rd applicant-writ petitioner forthwith, but without any back wages.

Subject to the above direction, this writ petition is allowed. No costs.

_____
Justice T. Meena Kumari

_____
Justice G. Chandraiah

Date: 2nd November, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:18420 OF 2003

(Common Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

Dated: 02.11.2007

-

-

-

-